

# **The Consequences of Breaching the Rules of Evidence for the Effectiveness of the Evidence**

## **Abstract**

This diploma thesis deals with the phenomenon of ineffective evidence in criminal procedures as a result of a breach the rules of evidence. The aim of the thesis is to submit current regulations about evidence in the Czech legal system, evaluate it and shine a light on certain problems.

Can a criminal procedure be just if the essential principles are trampled on and the government breaks the law? Are there any barriers preventing government arbitrariness? This thesis tries to answer these questions by introducing legal institutes based on area of evidence in criminal procedure.

Thesis consists of six parts – four chapters, introduction and conclusion. The first chapter deals generally with evidence and its specifics in criminal law. It defines crucial terminology to understand this topic thoroughly and shines a light on principles of evidence. The second chapter revolves around admissibility and especially efficiency of evidence as a result of a breach in the rules of evidence by law enforcement. That breach of evidence has to fulfill a certain level of severity which has an important part in evidence ineffectivity. In the very last part of this chapter the author suggests legislative changes according to a draft of the new code of criminal procedure. The third chapter deals with the fruit of the poisonous tree doctrine based on rulings by the Supreme Court of the United State. This doctrine rules out evidence derived from unlawful operation by law enforcement or by unlawfully seized information. Part of this chapter consists of Czech theory and case law related to the aforementioned doctrine. The fourth chapter interpretes case law of European Court of Human Rights in Strasbourg, related to effectiveness of evidence, prohibition to torture and right to a fair trial. It consists of two critical cases: Magnus Gäfgen and Abu Bakah Jalloh.

In the conclusion of the thesis, the author summarises essential pieces of knowledge and thoughts about current regulation and also offers his point of view on the possible new legislation about effectiveness of evidence.

## **Key words**

evidence in criminal procedure, ineffectiveness of evidence, fruit of the poisonous tree doctrine